## REMARKS

Claims 1-30 are all the claims pending in the application. The Examiner rejects claims 1-30 under 35 U.S.C. §102(e) as being anticipated by Kim et al. (US 2002/0141349).

Applicant respectfully requests acknowledgement of foreign priority under 35 U.S.C. §119(a)-(d) to claim the benefit of the Korean Application No. 10-2002-0078797 filed on December 11, 2002 and No. 10-2002-79101 filed on December 12, 2002

§ 102(e) Rejection

Claims 1-30 have been rejected under 35 U.S.C. 102(b) as being anticipated by Kim.

A proper rejection for anticipation under § 102 requires complete identity of invention. The claimed invention, including each element thereof as recited in the claims, must be disclosed or embodied, either expressly or inherently, in a single reference. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); Standard Havens Prods., Inc. v. Gencor Indus., Inc., 953 F.2d 1360, 1369, 21 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1991).

Applicant amends the claims to overcome the Examiner's rejections and respectfully requests reconsideration and early allowance.

Independent claim 1:

Kim is directed to a method for controlling a data transmission rate on a reverse link comprising the steps of determining an interference level at a base station due to signals from the mobile stations served by the base station; determining a transmission energy level required for each mobile station; comparing the interference level with the transmission energy level to obtain a comparison result for each mobile station; and adjusting a data transmission rate for each mobile station based upon the comparison result sent via a common channel on a forward link to each mobile station in a dedicated manner. (See, Kim App., para. 0071.)

The present invention is also directed to a method for setting a Reverse Activity Bit (RAB), wherein the RAB is used to control the transmission rate of information between a

mobile station and a base station. Both Kim's method and the present invention use "rise over thermal" (ROT) to measure the total amount of noise over thermal noise in a signal at a base station. Both compare the ROT with a threshold value, and both adjust a parameter to control the data transmission rate. The differences between Kim and the present invention lie in how the adjustment is determined.

The present invention relies upon adjusting the RAB responsive to the ROT state and to the transition degree of the ROT state. The ROT state is a characterization of data channel noise. (*See*, App., para. 0052-0061.) This limitation is distinctly claimed in dependent claim 4, and the limitation is not present in Kim, particularly in paragraphs 0071-0073 and 0119-0129 cited by the Examiner. Applicant amends independent claim 1 to include the limitations of claims 2-4, and cancels claims 2-4, and asserts that independent claim 1 and all claims depending therefrom are allowable.

Dependent claim 6:

Kim relies upon a detected (or measured) ROT for adjusting the data transmission rate. *See*, Kim, para. 0119. Claim 6 teaches the limitation of using a calculated ROT wherein the calculated ROT is based upon the loading of the reverse link and the RAB set time. Kim does not teach or suggest limitation, and Applicant asserts that for at least this reason, claim 6 and those claims depending from claim 6 are allowable as well.

Independent claim 15:

Claim 15 includes the limitations of a RAB set time calculation unit wherein the RAB set time calculation unit divides the ROT into at least two states, and wherein the RAB generation unit uses the RAB set time for lowering the data rate. These limitations are not taught nor suggested by Kim, and therefore Applicant asserts independent claim 15 and all claims dependent therefrom are allowable for at least this reason.

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<u>Independent claim 23:</u>

Claim 23 includes the limitation of a <u>ROT variation rate calculation unit</u> whereas Kim does not teach or suggest this limitation. Kim compares the detected ROT against at least one threshold value, but does not compute the rate of change of the detected ROT value for use in further computations. Because Kim does not teach or suggest the limitation of a ROT variation rate calculation unit, Applicant asserts independent claim 23 and all claims dependent therefrom are allowable for at least this reason.

<u>Dependent claims 5-14, 16-22, and 24-30:</u>

Each of the above listed dependent claims depends from an allowable independent claim and is therefore allowable. Applicant respectfully request reconsideration and withdrawal of the rejection.
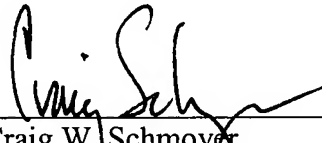
## CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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